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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

10 NORTHWEST SHEET METAL WORKERS
11 WELFARE FUND; NORTHWEST SHEET
12 METAL WORKERS PENSION FUND; and
13 NORTHWEST SHEET METAL WORKERS
14 SUPPLEMENTAL PENSION TRUST,

15 Plaintiffs,

16 v.

17 REFRIGERATION & FOOD EQUIPMENT,
18 INC.,

19 Defendant.

No.

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF**

JURISDICTION AND VENUE

1. This is an action brought pursuant to Section 301 of the National Labor Relations Act, as amended (hereafter "the Act"), 29 U.S.C. § 185, and Section 502 of the Employee Retirement Income Security Act of 1974 (hereafter "ERISA"), 29 U.S.C. § 1132. Jurisdiction and venue are conferred upon this Court by 29 U.S.C. § 185(a), 1132(a), (e) and (f).

PARTIES

2. Plaintiff NORTHWEST SHEET METAL WORKERS WELFARE FUND (hereafter "Welfare Trust") is a labor-management health and welfare trust fund created pursuant to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and authorized to

1 sue in its own name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). Plaintiff Welfare
2 Fund is administered in the State of Washington.

3 3. Plaintiff NORTHWEST SHEET METAL WORKERS PENSION FUND
4 (hereafter “Pension Trust”) is a labor-management pension trust fund created pursuant to the
5 provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and authorized to sue in its own
6 name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). Plaintiff Pension Fund is
7 administered in the State of Washington.

8 4. Plaintiff NORTHWEST SHEET METAL WORKERS SUPPLEMENTAL
9 PENSION TRUST (hereafter “Supplemental Pension Trust”) is a labor-management pension
10 trust fund created pursuant to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c),
11 and authorized to sue in its own name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1).
12 Plaintiff Pension Fund is administered in the State of Washington.

13 5. Defendant REFRIGERATION & FOOD EQUIPMENT, INC. (“RFE INC.”) is
14 a sheet metal contractor and is a party to a collective bargaining agreement with Sheet Metal
15 Workers Local 23. That industry affects commerce within the meaning of the Act. RFE Inc.
16 has employed or does employ persons represented by Local 23. RFE Inc.'s principal place of
17 business is 1901 W. Tudor Rd., Anchorage, AK 99517.

18 **CLAIM FOR RELIEF**

19 6. Plaintiffs incorporate by reference as though set forth fully herein paragraphs 1
20 through 5 above.

21 7. The collective bargaining agreement between Defendant and Local 23 was in effect
22 at all times material hereto. By that agreement Defendant RFE, Inc. became obligated to make
23 monthly contributions to plaintiffs Welfare, Pension, and Supplemental Pension, as well as other
24 funds, on behalf of employees represented by Local 23.

25 8. Defendant has also agreed to and has received money from its Local 23 employees,
26 as part of the employees’ after-tax wages, which Defendant is and was obligated on a monthly

basis to deposit into each employee's account, or submit to Local 23 as part of each employee's dues obligation. Defendant holds such money in trust.

9. Payments due to the various plaintiff and non-plaintiff Trusts, and the amounts of employees' after-tax wages held in trust by Defendant, are calculated pursuant to a contribution reporting form required to be prepared monthly by Defendant.

10. The completed contribution reporting form and accompanying payment are due at the Welfare office and address within fifteen (15) days after the end of each calendar month.

11. For the periods of October and November 2017, Defendant failed to timely make payments due to plaintiffs despite its obligation under the trust agreements to which it is bound to do so and despite demand by plaintiffs. In accordance with those trust agreements, Defendant was assessed late fees for both October and November 2017, which it has improperly refused to pay.

12. Unless ordered by this Court, Defendant will continue to refuse to pay to the Plaintiffs the late fees due them. As a result, Plaintiffs will be irreparably damaged.

13. In addition to the unpaid contributions, Plaintiffs are entitled to the following pursuant to Section 502(g) of ERISA, 29 U.S.C. § 1132(g), and Section 301 of the Act, 29 U.S.C. § 185, as amended:

- (a) Interest on the unpaid late fees;
- (b) An amount equal to the greater of:
 - (i) interest on the unpaid late fees (hereinafter "penalty"), or
 - (ii) liquidated damages in an amount equal to 20% of the amount awarded as unpaid or delinquent contributions, as provided for in the Trust Agreement (hereinafter "liquidated damages"); and
- (c) Reasonable attorneys' fees and the costs of this action.

A copy of this complaint will be served upon the Secretary of Labor and the Secretary of the Treasury by certified mail as required by ERISA, 29 U.S.C. § 1132(h).

1 WHEREFORE, plaintiffs demand judgment against the Defendant:

2 1. Obligating Defendant to pay to plaintiffs the full amount of late fees owing to it for
3 the periods of October and November 2017, with the proper amount of interest and with a penalty
4 or liquidated damages as established by Section 502(g) of ERISA, 29 U.S.C. § 1132(g), the Trust
5 Agreements, and the collective bargaining agreement;

6 2. Restraining and enjoining Defendant, its officers, agents, servants, attorneys, and
7 all persons acting on its behalf or in conjunction with it from: (a) refusing to pay late fees to
8 plaintiffs for the periods of October and November 2017 to current, and refusing to timely make
9 payments for all periods thereafter for which Defendant is obligated to file such reports under the
10 terms of the collective bargaining agreement, and (b) refusing to pay to plaintiffs all late fees,
11 including interest, penalties, and liquidated damages, due for the periods October and November
12 2017 to current, and for all periods thereafter for which Defendant is obligated to make timely
13 payments under the terms of the collective bargaining agreement;

14 3. Requiring Defendant to pay to plaintiffs reasonable attorneys' fees and the costs
15 of this action as set forth in Section 502(g) of ERISA 29 U.S.C. § 1132(g); and

16 4. Granting plaintiffs such further and other relief as may be just and proper.

17 DATED this 5th day of February, 2018.

18 MCKANNA BISHOP JOFFE, LLP

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